

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

SIDNEY JAMES BRASS,
PETITIONER,

v.

UNITED STATES BUREAU OF PRISONS,
RESPONDENT.

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CIVIL ACTION NO. 4:05-CV-660-Y

**FINDINGS, CONCLUSIONS, AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND NOTICE AND ORDER**

This cause of action was referred to the United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b), as implemented by an order of the United States District Court for the Northern District of Texas. The findings, conclusions, and recommendation of the United States Magistrate Judge are as follows:

I. FINDINGS AND CONCLUSIONS

A. NATURE OF THE CASE

This is a petition for writ of habeas corpus by a federal prisoner pursuant to 28 U.S.C. § 2241.

B. PARTIES

Petitioner Sidney James Brass, Reg. # 30556-177, is in custody of the Federal Bureau of Prisons and is currently incarcerated at Federal Detention Center in Mansfield, Texas.

Respondent is the United States Bureau of Prisons.¹

¹The undersigned makes no finding or recommendation as to whether the designated Respondent is the correct respondent in this case.

C. PROCEDURAL HISTORY

On October 28, 2003, Brass was sentenced by the United States District Court for the Northern District of Texas, Amarillo Division, to a term of forty-six months' imprisonment and five years supervised release. (Petition at 1.) With good time, Brass was to begin his term of supervised release on October 4, 2005. (*Id.*) Due to alleged violations of his pre-parole release program, however, Brass was sanctioned and his good time was forfeited. (*Id.* at 1-5.) On October 20, 2005, Brass filed this petition, in which he admits that he has not exhausted his prison administrative remedies regarding his time-credit dispute and argues that any attempt to do so would be futile and inadequate. (*Id.* at 5.)

On November 22, 2005, Brass filed with this court a pleading entitled, "Agreed Motion to Withdraw Writ of Habeas Corpus Without Prejudice," stating that his counsel and the attorneys for the Bureau have communicated and that it now appears appropriate for him to exhaust his administrative remedies. In order to allow him to exhaust his administrative remedies, the parties agree to withdraw the petition.

II. RECOMMENDATION

It is therefore recommended that Brass's "Agreed Motion to Withdraw Writ of Habeas Corpus Without Prejudice" should be GRANTED and this case be dismissed without prejudice, except as to any application of the federal statute of limitations or other federal procedural bar which may apply.

**III. NOTICE OF RIGHT TO OBJECT TO PROPOSED
FINDINGS, CONCLUSIONS AND RECOMMENDATION
AND CONSEQUENCES OF FAILURE TO OBJECT**

Under 28 U.S.C. § 636(b)(1), each party to this action has the right to serve and file specific written objections in the United States District Court to the United States Magistrate Judge's proposed findings, conclusions, and recommendation within ten (10) days after the party has been served with a copy of this document. The court is extending the deadline within which to file specific written objections to the United States Magistrate Judge's proposed findings, conclusions, and recommendation until December 20, 2005. The United States District Judge need only make a *de novo* determination of those portions of the United States Magistrate Judge's proposed findings, conclusions, and recommendation to which specific objection is timely made. *See* 28 U.S.C. § 636(B)(1). Failure to file by the date stated above a specific written objection to a proposed factual finding or legal conclusion will bar a party, except upon grounds of plain error or manifest injustice, from attacking on appeal any such proposed factual finding or legal conclusion accepted by the United States District Judge. *See Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc op. on reh'g); *Carter v. Collins*, 918 F.2d 1198, 1203 (5th Cir. 1990).

IV. ORDER

Under 28 U.S.C. § 636, it is ORDERED that each party is granted until December 20, 2005, to serve and file written objections to the United States Magistrate Judge's proposed findings, conclusions, and recommendation. It is further ORDERED that if objections are filed and the opposing party chooses to file a response, a response shall be filed within seven (7) days of the filing date of the objections.

It is further ORDERED that the above-styled and numbered action, previously referred to the United States Magistrate Judge for findings, conclusions, and recommendation, be and hereby is returned to the docket of the United States District Judge.

SIGNED November 29, 2005.

/s/ Charles Bleil
CHARLES BLEIL
UNITED STATES MAGISTRATE JUDGE